

The Prudential Regulation Authority's approach to policy

UK Finance response to DP4/22

December 2022

Introduction

1. UK Finance is the collective voice for the banking and finance industry. Representing around 300 firms, we act to enhance competitiveness, support customers and facilitate innovation. We welcome the opportunity to respond to the Prudential Regulation Authority's (PRA) [discussion paper](#) on its future approach to policy.
2. If you have any questions relating to this response, please contact Daniel Wraith, Manager, Public Affairs and Public Policy, at daniel.wraith@ukfinance.org.uk.

Executive summary

3. We support the various measures stemming from the future regulatory framework (FRF) review that the Financial Services and Markets (FSM) Bill implements. We welcome the PRA's approach to its new responsibilities under the Bill, and its commitment to taking full advantage of the opportunities that the reforms will enable, including fresh consideration of the relationship between the regulator and the firms it regulates. Taken together, we believe these will create the conditions for the continued success of a strong, diverse and vibrant banking and finance sector which provides world class services in the UK and overseas.
4. In particular:
 - We welcome the PRA's proactive approach to the new secondary competitiveness and growth objective. To be successful, it is essential that the new objective be made part of the DNA and culture of the PRA, with the tone set from the top. For the objective to have a meaningful and enduring impact, we would urge the PRA to be as transparent as possible in demonstrating how it factors the objective into its decision making. We support the proposed operational changes to improve ease-of-business for firms, and strongly welcome the commitment to embed the objective into every stage of the policy making cycle.
 - As the regulator of one of the world's preeminent financial centres, the PRA rightly plays an important role in the setting of international standards. We agree that it should continue to participate fully in international fora such as the Basel Committee. The PRA should take a pragmatic approach to implementing these standards and should do so proportionately, taking account of the specific characteristics of the UK market and, where relevant and possible, strive for minimal divergence from other jurisdictions. We welcome the PRA's commitment to working closely with industry and the government to strike this difficult balance.
 - We strongly welcome the PRA's evidence-based approach to policy making, which will make for better quality regulation and minimise unintended

consequences. This is critically important at all stages of the policy making cycle: when deciding whether to intervene, in determining the most appropriate intervention, and in ensuring that previous and ongoing interventions are having their intended effect. Engaging regularly with regulated firms from across the market is essential for gathering this evidence.

- We welcome the move away from legalese, that is common in financial services regulation in some jurisdictions, towards use of plain English. The move to a digital approach is also in line with user experience developments in other sectors.

Consultation questions

Q.1 Do you have views on whether we are correct to adopt a proactive approach to our new secondary objective? If so, do you have views on ways in which we could pursue our new secondary objective, as part of a proactive approach?

5. We support the PRA taking the same proactive approach to the new secondary competitiveness and growth objective that it already takes to its competition objective.
6. We agree that the UK's reputation for strong regulatory standards, set by independent regulators advancing public policy objectives given to them by Parliament, supports our international competitiveness. We strongly agree that competitiveness should not be directly traded-off against financial stability, which is itself a key ingredient in making the UK attractive to international financial services businesses.
7. Rather, the new secondary objective should be used to choose between policy options which would equally deliver the financial stability objective, in terms of how they enhance long term growth and international competitiveness and support our members' contribution to achieving it, for instance through the supply of credit and risk management services to companies operating in the UK. But we note that financial stability is a broad concept that is difficult to measure precisely and that does not justify all policies options equally.
8. We agree with the PRA that the competitiveness objective could be furthered by delivering greater regulatory predictability (including through the Regulatory Initiatives Grid), improving regulatory interactions with firms, streamlining application processes and making the rulebook more accessible and user-friendly.
9. For firms, most important will be how the new secondary objective alters the PRA's approach to policy making and how this is reflected in its regulation. We therefore welcome the commitment to embed competitiveness considerations from an early stage of policy development. This includes analysis of the impact of the proposed policy on competitiveness in all formal internal committee papers and explaining how they have had regard to the objective in its consultation papers and policy statements. Embedding this cultural mind-set to future policy making will be critical and will require the tone to be set from the top to emphasise the secondary objective's importance.
10. Another way in which the PRA can further its new objective is by continuing to pursue its existing secondary objective to facilitate competition. Measures to improve domestic competition will, generally, also improve the international competitiveness of the UK and the growth of its economy. Effective competition within the UK market promotes innovation and cost-efficiency, both of which help UK firms to succeed internationally.

11. Basel 3.1 provides an excellent opportunity for the PRA to demonstrate its proactive approach to the new secondary competitiveness and growth objective. We urge the PRA to have regard to this as it engages with the industry and other stakeholders in the finalisation of the Basel 3.1 standards and the ensuing implementation. The PRA should consider adopting a similar approach to that taken by the HM Treasury (HMT) in its recent review of the Solvency regime.
12. It would be helpful for both the PRA and industry for the PRA to conduct an annual review of how it has considered international competitiveness and economic growth in its review and development of policy, and how it has furthered this objective through enhancements to the regulatory framework. This would allow the regulator, Parliament and industry to take stock of the effectiveness of the secondary objective, and the direction of development of UK financial services.

Q.2 Do you agree that the approach to our objectives and regulatory principles, including on clustering regulatory principles and focusing detail on the most significant in each case, effectively supports Parliament in holding us to account?

13. Ensuring effective scrutiny of the regulators by Parliament is critical. We do not have a view on the detailed arrangements for ensuring this, as we believe this is a matter for Parliament, the government and the regulators themselves.
14. Our sense is that proposed clustering of regulatory principles will aid Parliament's scrutiny of the more significant aspects of the PRA's work, including that which relates to cross-cutting considerations such as innovation – including relating to climate change and sustainability – and proportionality.

Q.3 Do you have any views on our approach to clustering regulatory principles for undertaking and presenting analysis?

15. We support the proposed clustering as an efficient and pragmatic approach, reflecting how our members often approach them.

Q.4 Do you agree that a strong commitment to implementing international standards is an effective way of pursuing our objectives?

16. Yes, we fully support the PRA's implementation of international standards and encourage it to continue to take the lead in the Basel Committee as global standards evolve. It should strive to align with international standards and avoid the temptation to 'gold-plate' them without strong justification. Nor should the PRA avoid making improvements, in particular to enhance risk sensitivity of the framework. In addition, the PRA should lead the way in pushing certain changes to be made to the relevant international standard(s), ideally before finalisation, and should not hesitate to address these changes regionally before an international review. Disproportionate implementation of imperfect international standards otherwise puts the UK at a competitive disadvantage by 'unlevelling' the playing field and reducing predictability, particularly for firms that operate globally.
17. A way to support international alignment would be for the PRA to push for more specific, detailed provisions in international standards, to reduce the deviation between national implementations which can occur when international rules consist of high-level principles. This sort of detailed alignment may mean that both international and domestic rule making may take longer, but the long term benefits of a more globally consistent regulatory framework would more than outweigh the longer development times.
18. Some examples include:

- Standardised approach for counterparty credit risk (SA-CCR), where an international standard is required and where the UK should encourage an international review, while simultaneously seeking to address the standard as soon as possible in the UK. The calibration of the international standard in this case is not justified, does not create the level playing field and would not support UK competitiveness.
- Basel 3.1 output floor, which should apply at the level of UK consolidation to address the risk it was designed to address at international level and to operate as a true backstop. The PRA should avoid a solo application that creates unnecessary complexity and would become a binding constraint on many business models and structures within the UK.
- The ‘Strong and Simple’ framework is a good example of a new policy initiative being explored and developed in a considered and comprehensive manner. The PRA has issued discussion and consultation papers to determine how the current ruleset could be tailored more proportionately for smaller firms that do not pose a systemic risk to the UK’s financial system and which are less well-resourced to be able to keep abreast of the UK’s complex, changing and “one-size-fits-all” prudential regulatory architecture.

Q.5 What do you view as the costs and benefits of adjusting our implementation of international standards to account for UK market circumstances?

19. We agree that a strong commitment to implementing international standards is an effective way for the PRA to pursue its objectives.
20. We recognise that there may be good reasons to adjust the implementation of domestic standards. As the discussion paper states, these can include tailoring the rules to the specificities of the UK market (made easier by no longer having the EU as an intermediary), and accounting for how other major jurisdictions are implementing the standards (as this can have a bearing on competitiveness).
21. However, care should be given to ensure that this is done in a proportionate manner. Though there may be good reasons for going beyond the baseline of an international standard, “Gold-plating” runs the risk of putting the UK at a competitive disadvantage. Adjusted implementation of international standards can also cause friction and costs for firms – particularly those that operate in multiple jurisdictions which take divergent approaches to implementing the same international standard.
22. We therefore welcome the PRA’s commitment to being led by data and evidence. We would urge it to consult industry extensively on any proposed deviations from international standards, and to set out in detail its underlying reasoning, including a cost-benefit analysis and assessment of the UK-specific market characteristics that warrant a divergent approach.

Q.6 Do you support the PRA’s international engagement strategy?

23. We welcome the PRA’s participation in international standard-setting bodies and its support of their activities by the commitment of subject matter experts to help shape the standards that they produce. We also welcome the PRA’s close coordination with regulators in other jurisdictions, including through supervisory colleges and supported by Memoranda of Understanding (MoU), which is important to enhance regulatory trust.
24. We also urge the PRA to work closely with UK authorities, including the Bank of England (BoE), the Financial Conduct Authority (FCA) and the Financial Reporting Council (FRC)

to ensure a streamlined and effective engagement approach with the banking industry that avoids duplication. For example, it is essential that the PRA, the FCA and the FRC have clear MoUs in place with regard to the implementation of the [BEIS's corporate reform proposals](#).

25. This is particularly important for the UK given its position as a leading international financial centre, where many firms with operations in the UK also have operations in other, non-UK jurisdictions. In particular, we have already seen recently, at both a global and national level, significant increases in the number of proposed standards and rules in respect of sustainable finance and climate-related risks. The importance of this is only likely to increase in the months and years ahead, so we welcome that the PRA is actively participating in international fora.
26. We believe it is important for the PRA to engage with firms to inform the stances it takes in international fora. A welcome example of this was the recent 'Climate change and capital' conference.
27. We also welcome the PRA's involvement in providing technical information and advice to HMT to determine whether other jurisdictions can be considered equivalent to the UK.

Q.7 Do you have any views on the PRA's approach to policymaking? Do you have any views on how the PRA should approach prioritising which of its existing policies to evaluate?

28. We support the 'policy cycle' approach to policy making, in particular the commitment to make more frequent use of discussion papers at the early stage of policy development, and to keep rules under review (in the 'evaluation stage') to ensure they are serving their intended purpose with the benefits and costs expected when they were introduced.
29. We strongly support the concept behind the 'initiation stage', as it involves identifying and monitoring risks and opportunities, assessing whether taking action would further the PRA's objectives, and if so, considering the appropriate type of response. How this is actualised in practice will be critical, but we welcome the approach of linking policy development to any identified and material areas of risk.
30. We welcome the PRA's commitment to seek stakeholder views as it develops its statement of policy on how it will review its rules (a requirement stemming from the FSM Bill).
31. We would welcome individual members of the Practitioner Panel being permitted to themselves take industry soundings prior to Panel meetings, as this would make for more informed and comprehensive discussion.
32. The PRA's approach to existing rules should ensure a regular review of progress in related policy areas to remove duplicative or outdated requirements. For instance, as noted by the Independent Panel on Ring-fencing and Proprietary Trading, there has been a clear case for reviewing and dismantling the ring-fencing regime based on the statement by the Bank of England that "*resolvability assessments demonstrate the significant progress made by the banking industry since the global financial crisis such that "the UK has overcome the problem of "too big to fail"*".
33. It is important for the PRA to be able to consider practical aspects of the operation of the regime on an ongoing basis. The PRA needs a mechanism to receive feedback on practical challenges to be able to identify and prioritise implementation issues that can be remediated.

34. The PRA already incorporates cost-benefit analyses (CBAs) into its policy making processes. We strongly welcome this evidence-based approach but would urge the PRA to be more specific in setting out how it has estimated and weighed the costs and benefits of a given policy approach. For example, in developing recent policies on Operational Resilience, Operational Continuity in Resolution, the Resolvability Assessment Framework (RAF) and Trading Activity Wind Down (TWD), the approaches the PRA took to estimate compliance costs varied considerably. For all four policies, the PRA argued at a high level that the financial stability benefits outweighed the costs to firms but was not specific as to how exactly it had weighed the costs against the benefits. In some cases the PRA does not address duplication between the BoE and the PRA, for example between RAF (BoE) and TWD (PRA). We would welcome the PRA addressing this challenging but important issue in its forthcoming Statement of Policy on the undertaking of CBAs (as required under the FSM Bill).
35. As we have argued previously in our responses to HMT's consultations on the FRF, CBAs are most effective if they:
- account for the cumulative impact of a proposed intervention. The underlying complexities of banking and finance markets cannot be fully assessed through static or standalone CBAs that focus on the immediate impacts of single policy proposals by a single regulator;
 - analyse a full spectrum of options, from "do nothing" through to formal rule-making;
 - undertake an appropriate sensitivity analysis of options to assess the range of benefits and costs under varying assumptions; and
 - include an international comparison, where relevant, examining whether rules with the same policy objectives exist in other financial centres with which the UK competes, supporting the new secondary objective.

Q.8 Do you have views on how the PRA could enhance its approach to external engagement, and our proposed guiding principles?

36. We welcome the PRA's commitment to engage with industry at each stage of its policy cycle, including in the early stage of considering whether and how to intervene, and in evaluating whether an existing policy is working as intended. We believe that industry engagement in the early stages of the policy making cycle will be particularly critical as industry feedback may help provide the PRA with a clearer picture of how certain business practices operate. Receiving this feedback at the initiation stage will play an important role in setting the direction of travel for any potential future policy making, as it can sometimes be difficult to 'course correct' once a proposal reaches the consultation stage (depending on how detailed/technical the proposals are). We propose below that it would be helpful to form issue specific joint industry/regular standing groups to facilitate this early and ongoing engagement.
37. In the past the FSA hosted "standing groups", attended by both industry and regulators, where questions of rule interpretations and implementation could be discussed and clarified. Minutes of these meetings were shared to ensure maximum visibility for all industry participants.
38. Given the PRA does not expect to have an EBA-like Q&A process, such a forum would be helpful. This would also be consistent with the increased focus of the PRA on evaluation of rules, as it would give the PRA visibility over issues with which firms are having difficulty.

Q.9 Do you have any views on the PRA's future data collection? How can the PRA engage with you most effectively, whilst it is developing its approach?

39. Data is very important to sound, evidence-based policy making and our members take their responsibilities to submit regulatory returns accurately and in a timely fashion very seriously.
40. We therefore welcome the PRA's data-centric approach to policy making. We fully support its commitment, with the BoE and FCA, to develop a world-class RegTech and data strategy based on standardisation of data definitions, inputs and format linked to a Common Input Layer.
41. The PRA should remain alive to the fact that, if the UK moves alone, without working with other regulators, it could reduce the effectiveness of any reforms, because many firms report the same data to other foreign regulators.
42. We also welcome the PRA's forthcoming Banking Data Review which will examine the possibility of rationalising the suite of regulatory reports. We urge the PRA to ensure that a holistic and joined-up approach is taken across the combination of this project and the already running joint BoE-FCA Transforming Data Collection project. In this regard we recommend that the PRA leverages and utilises the learnings from similar projects carried out by other regulators such as the Monetary Authority of Singapore and that in progress by the European Central Bank.
43. While we recognise the importance of data in regulatory oversight, it is critical to ensure that firms are provided with sufficient notice to allow them to allocate resource to complete the requests within the required timeframe. We would urge the PRA to also remain cognisant of the number of *ad hoc* requests it makes of firms to avoid overburdening them. Where possible, the PRA should re-use previously collected data before issuing new or non-standard RFIs.
44. We would welcome the PRA consulting industry on templates for data requests and the timelines for meeting them. Moreover, early engagement with the industry on potential data requests could facilitate industry participation and also provide a realistic view of the industry's ability to respond to data requests within a particular timeframe, and the costs involved.

Q.10 Do you consider that the PRA's proposed approach to the four key reforms outlined above will create a more accessible, efficient, usable, and clearer Rulebook? What could we do differently or in addition?

Key reform one - A user-friendly website

45. We welcome the aspiration for "one user-friendly website" for the PRA Rulebook, organised by topic area. Making it more navigable is important for ease of interacting with the PRA and meeting its requirements, particularly for smaller firms and foreign branches. This is a high priority item for the industry. Navigating UK rules post-Brexit has been difficult and firms and we strongly urge the PRA to prioritise the delivery of a long term solution via this first-rate rulebook.
46. We welcome the PRA's plans to digitise Supervisory Statements and Statements of Policy but note that the very useful 'time-travel' function will only be initially available for future updates. We would of course welcome time-travel functionality being introduced for all the PRA's regulatory products (and indeed to those of the Financial Policy Committee) but recognise that as a longer-term ambition given resource constraints.

47. Our members have also suggested links to EBA guidelines that remain applicable be included on the website, but re-formatted to the PRA's own proposed document format.

Key reform two – streamlined policy documents formats

48. We recognise that the PRA uses a variety of mechanisms to promulgate developments in its prudential supervisory expectations, including speeches by senior executives and Dear 'C-suite' letters, all of which it is important for our members to access and understand. Alongside these sit pronouncements from the Financial Policy Committee. So a comprehensive, granular search tool that would draw together all policy and no-policy material with the ability to search by regulatory topic as well as sector would be very welcome.

Key reform three – a coherent structure and language

49. We fully support the PRA's plan to use plain and inclusive English.

Key reform four – explaining purpose and intentions

50. We support the idea of using purpose statements and note that 'recitals' prefacing EU legislation can be helpful in helping firms understand the underlying objectives. It will be particularly useful for firms that had not followed the original publication of the rule and therefore may not have read the explanation in discussion papers and consultation papers.

Q.11 How can the PRA most effectively use 'purpose statements' or similar non-technical explanations to improve the clarity of our policies?

51. As indicated in our response to Question 8, PRA hosted "standing groups", attended by both industry and regulators, where questions of rule interpretations and implementation could be discussed and clarified, with minutes disseminated, would address the void left by the lack of an EBA-like Q&A process.

Q.12 Do you consider that there are other effective ways to tackle the complex regulatory landscape?

52. As the PRA has recognised, the 'onshored' EU financial services *acquis* is complex and sits in several different places (including the statute book and in regulators' rule books). It is therefore very challenging to get a consolidated view of UK prudential requirements. For instance, while some parts of the UK CRR (essentially the CRR2 parts) are in the PRA rulebook, the rest of CRR (that which was onshored ahead of the withdrawal date) are in statute, which has been amended more than once. With Basel 3.1 now unlikely to be implemented until after March 2025 at the earliest, there will be a longer period during which CRR2 and other onshored text will apply.
53. We recognise that there is no straightforward solution to this, as the PRA cannot itself amend the statute book. We understand that HMT, the PRA and FCA have jointly undertaken a mapping exercise that seeks to provide a single view of the consolidated prudential requirements. It would be immensely helpful if this were to be shared with industry.